



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,089	07/11/2003	Peter A. Panec	ODVFP010	3811
22434 7590 01/05/2009 Weaver Austin Villeneuve & Sampson LLP P.O. BOX 70250 OAKLAND, CA 94612-0250				
EXAMINER				
OSMAN, RAMY M				
ART UNIT		PAPER NUMBER		
2457				
MAIL DATE		DELIVERY MODE		
01/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/618,089

Applicant(s)

PANEC ET AL.

Examiner

RAMY M. OSMAN

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is responsive to amendment filed on October 16, 2008, where applicant amended claims 1,2,4-21. Claims 1-29 are pending.

Response to Arguments

2. Applicant's arguments filed 10/16/2008 have been fully considered and are found to be persuasive. Therefore the previous rejection is withdrawn. However a new grounds of rejection in view of newly cited art follows.
3. The previous 101 rejection is withdrawn in view of amendments of 10/16/2008.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-29 rejected under 35 U.S.C. 102(b) as being anticipated by Cote et al (US Patent No 6,832,243).**
6. In reference to claim 1, Cote teaches a computer-readable storage medium having code stored thereon, the code executable by a processor to perform a computer implemented method of operating a message exchange network, the computer implemented method, comprising:

defining a plurality of event categories, each event category of said plurality of event categories being associated with a different one of a plurality of stages of messaging between a message sender and a message recipient, said stages of said messaging including posting of a message, routing of a message, delivery of a message, response to a delivered message (column 1 lines 19-28 & 38-44 and column 4 lines 29-39);

detecting an error condition during messaging between a message sender and a message recipient; coordinating said error condition with an identified one of said stages of said messaging (column 4 lines 29-39);

generating an alert message indicating said error condition and said identified stage of said messaging (column 5 lines 16-24); and

transmit said alert message to said message recipient (column 5 lines 55-67).

7. In reference to claim 4, Cote teaches the computer-readable medium of claim 1, wherein said messaging occurs via a public network (column 5 lines 55-67).

8. In reference to claim 5, Cote teaches the computer-readable medium of claim 1, wherein said detecting said error condition includes: detecting said error condition in connection with processing of a message generated by said message sender (column 4 lines 29-39).

9. In reference to claim 6, Cote teaches the computer-readable medium of claim 5, wherein said coordinating said error condition with said stage of said messaging includes: coordinating said error condition with one of posting of said message by said message sender, routing of said message to said message recipient, delivery of said message to said message recipient, and response to said message by said message recipient (column 4 lines 29-39).

10. In reference to claim 7, Cote teaches the computer-readable medium of claim 1, wherein said transmit said alert message include: transmit said alert message to said message recipient even when said message generated by said message sender is not delivered to said message recipient (column 4 lines 30-31).

11. In reference to claim 8, Cote teaches the computer-readable medium of claim 1, wherein said transmitting said alert message includes: transmitting said alert message to said at least one of said message sender and said message recipient via a public network (column 5 lines 65-67).

12. Claims 2,9-21 correspond to claims 1,4-8 and are slight variations thereof. Therefore claims 2,9-21 are rejected based upon the same rationale as given for claims 1,4-8. Furthermore, limitations regarding 'second event' are inherent since Cote teaches multiple events.

13. In reference to claims 3,22-26 and 27-29, these are method claims that correspond to the computer readable medium claims of 1,4-8. Therefore claims 3,22-26 and claims 27-29 are rejected based upon the same rationale as the above rejections.

Conclusion

14. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

15. Applicant may not introduce any new matter to the claims or to the specification. For any subsequent response that contains new/amended claims, Applicant is required to cite its corresponding support in the specification. (See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06)

16. In formulating a response/amendment, Applicant is encouraged to take into consideration the prior art made of record but not relied upon, as it is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner (Temp), Art Unit 2457

January 5, 2009